1	Chief Judge Lasnik
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7	UNITED STATES DISTRICT COURT
8	WESTERN DISTRICT OF WASHINGTON AT SEATTLE
9	UNITED STATES OF AMERICA,)
10) NO. CRO6-0041RSL Plaintiff,
11	v.) ORDER CONTINUING TRIAL DATE
12	RICHARD ALLEN FABEL,)
13	RODNEY ROLLNESS,) JOSHUA BINDER,)
14	RODNEY ROLLNESS,) JOSHUA BINDER,) RICKY JENKS, and,) PAUL FOSTER,)
15	Defendants.
16)
17	<u>ORDER</u>
18	The Court, having reviewed the records and files herein, enters the following
19	order:
20	1. The charges, which include RICO (18 USC § 1962), VICAR (18 USC §
21	1959), Hobbs Act Attempted Robbery (18 USC 1951), Witness tampering (18 USC
22	1512), and the trafficking in stolen motorcycles (18 USC §§ 2312, 2313,2321), allege a
23	complex racketeering enterprise encompassing murder, robbery, extortion, and
24	trafficking in stolen motorcycles. The penalties for the crimes charged are severe. Count
25	One (RICO) and Count Two (Conspiracy to Commit RICO) carry maximum penalties of
26	life in prison. Count Three (VICAR- murder) carries a mandatory sentence of life in
27	prison upon conviction.
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- 2. Several defense counsel acknowledge the need for a continuance. Counsel for Rodney Rollness and Joshua Binder request a continuance of 60 days; counsel for Ricky Jenks requests a continuance of 90 days. Defendant Paul Foster, who is out of custody, and whose case has been severed from the co-defendants, does not oppose a continuance of the trial date. Defendant Fabel objects to any continuance of his trial date.
- 3. Under the Speedy Trial Act, the following periods of delay are excluded in computing the time within which the trial of an offense must commence: "[D]elay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion." $18 \ USC \ 3161(h)(1)(F)$. A number of pretrial motions have been filed in this case, many of which are still pending, and several of which require evidentiary hearings. The new trial date would fall within this excludable time period.
- 4. Under the Speedy Trial Act, when the interest of justice mandates a continuance as to one defendant, a district court may continue the trial date, for a reasonable period of time, as to the joined co-defendants. 18 USC § 3161(h)(7); United States v. Messer, 197 F.3d 330, 338 (9th Cir. 1999).
- 5. For the reasons set forth above, the Court finds that the trial continuance is reasonable as to all defendants. Without rendering a final decision on any severance motions that have been filed, a continuance as to all defendants ensures that all of the defendants charged with RICO, and properly joined, will be tried jointly, thereby effectuating the purposes of § 3161(h)(7) and conserving substantial judicial resources. The continuance to March 5, 2007, ensures that the defendants in pretrial detention will be tried within 13 months of their arrest.

1	6. In light of the above, the Court finds that the ends of justice outweigh the
2	best interest of the public and the defendants in a speedy trial. This case is so complex,
3	given the number of defendants and the nature of the prosecution, that it would be
4	unreasonable to expect the parties to adequately prepare for pretrial proceedings or the
5	trial itself by the January 8, 2007 trial date. See 18 USC § $3161(h)(8)(B)(ii)$. Failure to
6	grant a continuance based upon the circumstances would result in a miscarriage of justice
7	in that defense counsel would not have adequate time to prepare the matter for trial. The
8	continuance provides counsel a reasonable amount of time necessary for effective
9	preparation, taking into account the exercise of diligence. See 18 USC $3161(h)(8)(B)(i)$.
10	IT IS HEREBY ORDERED that the trial date is continued from January 8, 2007 to
11	March 5, 2007.
12	IT IS FURTHER ORDERED that jury selection will take place on February 26
13	and 27, 2007.
14	IT IS FURTHER ORDERED that pursuant to Title 18, United States Code,
15	Section 3161(h), the period of time from the date of this order to the new trial date is
16	excluded in the computation of time under the Speedy Trial Act.
17	DONE this 11 th day of December, 2006.
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19	MMS Casnik
20	Robert S. Lasnik
21	United States District Judge
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